

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:18-CT-3228-D

BENJAMIN LOPEZ-PATINO,

Plaintiff,

v.

CHAPLAIN ASKEW, et al.,

Defendants.

ORDER

On April 19, 2019, Magistrate Judge Numbers issued a Memorandum and Recommendation (“M&R”) and recommended that the court dismiss Benjamin Lopez-Patino’s (“Lopez-Patino”) complaint [D.E. 29]. The deadline to object to the M&R was May 6, 2019. See id. at 6. On May 16, 2019, Lopez-Patino moved for entry of default [D.E. 30] and filed a letter concerning this action [D.E. 31]. On May 21, 2019, Lopez-Patino untimely objected to the M&R [D.E. 32].

“The Federal Magistrates Act requires a district court to make a de novo determination of those portions of the magistrate judge’s report or specified proposed findings or recommendations to which objection is made.” Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005) (emphasis, alteration, and quotation omitted); see 28 U.S.C. § 636(b). Absent a timely objection, “a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond, 416 F.3d at 315 (quotation omitted).

The court has reviewed the M&R, the record, and Lopez-Patino’s untimely objection. The court is satisfied that there is no clear error on the face of the record. Accordingly, the court adopts the conclusions in the M&R [D.E. 29].

In sum, the court ADOPTS the conclusions in the M&R [D.E. 29] and DISMISSES the action for failure to state a claim under 28 U.S.C. § 1915(e)(2)(B). The court DENIES Lopez-Patino's motion for entry of default as moot [D.E. 30]. The clerk shall close the case.

SO ORDERED. This 14 day of May 2019.



JAMES C. DEVER III
United States District Judge